Business Confidential Information
Deleted from Pages iii,
3, 4, 5, 6 and 7 and Exhibits A, C and D.

BEFORE THE OFFICE OF THE
UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee

)
POTENTIAL ACTION UNDER SECTION 203 OF THE)
TRADE ACT OF 1974 WITH RESPECT TO IMPORTS OF)
CERTAIN STEEL)
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COMMENTS SUBMITTED ON BEHALF OF
KERN-LIEBERS USA, INC. TO
REQUEST EXCLUSION OF TEXTURED ROLLED CARBON STEEL (ATRC@)
FROM IMPORT RELIEF UNDER SECTION 203

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EXECUTIVE SUMMARY

Kern-Liebers USA, Inc. is a U.S. importer of Textured Rolled Carbon Steel (ATRC@) from the United Kingdom and Germany. Kern-Liebers is an interested party participating in the Section 201 investigation conducted by the International Trade Commission (AITC@). Kern-Liebers hereby files this request for an exclusion of TRC from any increased tariff, tariff-rate quota or quantitative restriction under section 203 of the Trade Act of 1974 (Athe Act@).

TRC is a specialty product that Kern-Liebers transforms into seat belt retractors springs that will be sold to U.S. seat belt manufacturers. Because of its end-use, TRC has to comply with the Federal Motor Vehicle Safety Standard (AFMVSS@) 209. TRC is a high-resistance type of steel that contains a carbon content of .70% to .90%. It is roll-hardened to a minimum tensile strength of 1700 Nmm/2, with a thickness of 0.10 mm to 0.80 mm and a width of 200 mm or less. [

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The basis for this exclusion request is the lack of viable U.S. production of TRC steel. There is one U.S. company that produces small amounts of TRC, which are insufficient for Kern-Liebers needs and do not meet the FMVSS 209. On the other hand, there is a stable domestic demand for this product that can only be met by TRC imports. U.S. steel companies have no interest in producing this highly specialized product. Kern-Liebers has approached other U.S. steel companies about producing TRC but they have shown no interest in producing TRC because of its high cost of manufacture and relatively low volume of demand. The absence of a domestic industry should be a sufficient reason for the exclusion of TRC from any increased tariffs, tariff-quota or quantitative restriction under Section 203 of the Act. The domestic industry does not object to the exclusion of this product.

I. INTRODUCTION

As counsel and on behalf of Kern-Liebers USA, Inc., we hereby submit to the Trade Policy Staff Committee (ATPSC@) of the United States Trade Representative (AUSTR@) our request to exclude TRC from import relief under Section 203 of the Trade Act of 1974. This submission is timely filed according to the Federal Register notice published by the TPSC on October 26, 2001. *See* Trade Policy Staff Committee; Public Comments on Potential Action Under Section 203 of the Trade Act of 1974 with Reqard to Imports of Certain Steel, 66 Fed. Reg. 54321 (USTR 2001). As a U.S. importer, Kern-Liebers has standing to request such an exclusion pursuant to such Federal Register notice.

Kern-Liebers is a U.S. importer of TRC from Germany and the United Kingdom from which it produces springs for seat belt retractors, which are sold to U.S. makers of seat belts. Kern-Liebers is located at 1510 Albon Road, P.O. Box 396, Holland, Ohio, 43528. Kern-Liebers is an interested party participating in the Section 201 investigation on Certain Steel being conducted by the ITC. TRC is included in the scope of that investigation in the category of cold rolled sheet and strip (other than grain oriented electrical steel). *See* ITC General Information, Instructions, and Definitions for Commission Questionnaires, Steel, Inv. No. TA-201-73, <http://www.usitc.gov> (July 2001), at 8. The imports of TRC from Germany are also referred to by the manufacturer=s trade name ASorbitex@.

II. REQUIRED INFORMATION PURSUANT TO FEDERAL REGISTER NOTICE, 66 FED. REG. 54321

Pursuant to the Federal Register notice dated October 26, 2001 (66 Fed. Reg. 54321, 54322), the following are Kern-Liebers= answers to the questions posed by the TPSC regarding exclusion requests:

(a) The designation of the product under a recognized standard or certification (e.g. ASTM, DIN), or the commercial name for the product and the HTS number under which the product enters the United States;

The product for which an exclusion is sought is TRC produced in compliance with the Federal Motor Vehicle Safety Standard 209 (AFMVSS 209@). *See* 49 C.F.R. ' 571.209. TRC enters the United States under HTS numbers 7211.23.30, 7211.23.45, 7211.29.2090 and 7211.29.4500. These are not specific HTS numbers for TRC and they include various types of flat cold rolled steel. The USTR is requested to create an additional tariff reference for TRC in Chapter 99 of the HTS in order to exclude TRC from the above tariff numbers.

(b) A description of the product based on physical characteristics (e.g. chemical composition, metallurgical properties, dimensions, surface quality) so as to distinguish the product from products for which exclusion is not sought;

TRC has a carbon content of .70 % to .95%. It is roll-hardened to a minimum tensile strength of 1700 Nmm/2, with a thickness of 0.10 mm to 1.80 mm and a width of 200 mm or less. Tensile strength varies depending on the thickness of the product: 2300-2500 Nmm/2 for thickness ranging from 0.10 mm to 0.18 mm; 2250-2470 Nmm/2 for thickness ranging from 0.19 mm to 0.25 mm; 1900-2400 Nmm/2 for thickness ranging from 0.26 mm to 0.79 mm; and, 1750-2250 Nmm/2 for thickness ranging from 0.80 mm to 2.00 mm. There are specific tensile/pressure requirements according to the FMVSS 209.

The base steel used to produce TRC is of very high cleanliness, which means microscopic inclusions of types SS, OA, OS and OG (i.e. types of non-metallic inclusions) are extremely low. This cleanliness level is required by FMVSS 209. [

] *See* Certain Cold Rolled Products from Germany and Other Countries, ITC Inv. No. 731-TA-964-983, ITC Pre-hearing brief of Kern-Liebers dated October 24, 2001 at 13 (confidential version). *See also* Exhibit A.

(c) The basis for requesting an exclusion;

There is no viable production of TRC (TRC meeting the FMVSS 209) in the United States. The one putative producer cannot even meet Kern-Liebers requirements. Thus, Kern-Liebers believes that there is no legitimate reason for imposing a tariff, a tariff-rate quota or a quantitative restriction on such product. No action is needed to address any alleged injury to domestic producers when there is no domestic industry producing such a product. Moreover, customers and users of the products in the U.S. automotive industry that makes seat belts would be adversely affected if TRC is subject to high duties or quotas since there are no viable alternative sources in the U.S. *See* Exhibit B (letters from users).

In previous Section 201 investigations, the ITC has excluded certain products from the remedy recommendation even though they were included in an affirmative injury determination and in the scope of the investigation. *See* Carbon and Certain Alloy Steel Products, USITC Pub. 1553, Invest. No. TA-201-51 (July 1984), 1984 ITC Lexis 193, at p. 3 footnote 3; *see also* Nonrubber Footwear, USITC Pub. 1717, Inv. No. TA-201-55 (July 1985), 185 ITC Lexis 151, at p.126; and, Certain Steel Wire Rod, USITC Pub. 3207, Inv. No. TA-201-69 (July 1999), at I-4.

Kern-Liebers believes that besides Kern-Liebers, the only other U.S. company currently importing TRC into the United States from Germany is [

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In addition, there is no U.S. producer currently supplying the base steel from which TRC is made (*i.e.* hot band). For over 15 years, repeated trials failed to establish a single U.S. source for the hot band base steel. The primary reason for this lack of producers is because of the limited total annual volumes required for TRC in the United States. U.S. mills do not have the appropriate production capability and economic incentive to produce such type of steel. *See* Kern-Liebers= importers questionnaire responses in the Steel ITC investigation, Inv. TA-201-73, at Exhibit 2.

One U.S. company imports the hot band from Germany and converts it into small amounts of a type of TRC that does not meet the FMVSS 209. Such amounts are not even sufficient to meet Kern-Liebers annual requirement. [

] In the ITC public Post-hearing brief on injury of the Association of Cold Rolled Strip Steel Producers, on September 28, 2001 at 1, 10, it was indicated that this association represents the only potential U.S. producer of this product. The association states that as to ... ASorbitex and cold rolled textured strip steel for retractor springs. Theis Precision Steel is the only U.S. producer of cold rolled textured strip steel for these applications, but Theis does not object to excluding these products. @ *Id*. at 10. FN 13 (Emphasis added.) This was the only exclusion request not objected to by this domestic industry group. *See also* ITC Case Brief On Remedy of the Association of Specialty Cold Rolled Stri p Producers of Germany, Austria and Sweden (ASAGA@) submitted by Barnes, Richardson & Colburn dated October 30, 2001, at 3.

Brockhaus and Kern-Liebers developed TRC starting in 1969. In the mid seventies, Kern-Liebers started to work with Avesta Sheffiled Ltd. and another German company, [ ] as well as a Swedish producer of cold rolled steel, [ ]. In the late seventies early-eighties there were four producers, all in Europe.

In the mid eighties, the Swedish producer and the second Germany producer ceased making the TRC for commercial and technology reasons, leaving two manufacturers, both in Europe. In the late eighties, [

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In the mid nineties, a Japanese company, [ ] started experimental production of TRC which today exists on a very small scale in Japan and is limited to supply of

its domestic market. To the knowledge and experience of Kern-Liebers, this producer=s product does not meet the requirements of seat belt retractors under FMVSS 209. In the mid nineties, a French company, [ ] started experimental production of TRC, which today exists on a small scale. To the knowledge and experience of Kern-Liebers, this producer=s product also does not meet the requirements of seat belt retractors under FMVSS 209.

During the early nineties, Kern-Liebers discussed with three additional U.S. cold rolled steel producers the possibility of U.S. production of TRC, namely [ ] All three abandoned the efforts after preliminary trials. In all three cases the return on capital for the investment to produce the TRC was unacceptable to these companies and apparently much lower than the expected return on investment from other steel products that are needed in much greater volume.

During over 30 years of TRC production, Brockhaus and Avesta Sheffield Ltd. have remained to be the only producers worldwide that could consistently produce TRC that m eets the FMVSS 209 standard and in quantities sufficient to meet the demand of Kern-Liebers and other U.S. importers.

(d) The names and locations of any producers, in the United States and foreign countries, of the product;

There are no viable producers in the United States. As explained, [ ] In Germany there are two producers of TRC: Brockhaus, P.O. Box 3220, Breddestraße 45, D-58840 Plettenberg, Germany, and, Hugo Vogelsang GmbH, P.O. Box 5327, D-58103, Hagel-Hohenl, Germany. In the United Kingdom there is one producer: Avesta Sheffield Ltd., P.O. Box 161, Shepcote Lane, Sheffield S9 1TR, United Kingdom. In France there is one producer: [ ] In Japan there is also one producer: [ ], which does not export to the United States.

(e) Total U.S. consumption of the product, if any, by quantity and value for each year from 1996 to 2000, and projected annual consumption for each year from 2001 to 2005, with an explanation of the basis for the projection;

The U.S. consumption of TRC is directly related to the demand in the automotive industry. When vehicle production is up more seat belts are needed and more retractor springs and TRC. Kern-Liebers does not expect that demand for its products and its demand for TRC will be significantly greater than the U.S. car production. Therefore, TRC will remain a specialty steel produced in a primarily proprietary process. Because of the high capital investments, Kern-Liebers does not expect a major change through new producers entering the market.

Kern-Liebers: derived total 1996-2001 U.S. consumption from its actual numbers and an estimation of the consumption of Breed Technologies, the only two known importers/consumers of TRC in the United States. Data from 2002 through 2005 are best estimates, based on market knowledge and the fact that most TRC is used for automotive seat belts and automotive vehicle production growth is expected to slow down, compared to 1996-2000 actual annual growth. *See* Exhibit C.

(f) Total U.S. production of the product for each year from 1996 to 2000, if any.

There is no viable U.S. production of TRC. [

] Kern-Liebers obtained this information from [ ] **salesmen that regularly visit Kern-Liebers.** *See* Exhibit D for data on U.S. production.

(g) The identity of any U.S.-produced substitute for the product, total U.S. production of the substitute for each year from 1996 to 2000, and the names of any U.S. producers of the substitute.

The only possible substitute for TRC would be the type of TRC that [ ] This is not the acceptable TRC for seat belt production because it does not meet FMVSS 209. As stated above, the quantities available are insufficient and the product does not meet Kern-Liebers specifications. *See* Exhibit D for an estimation of U.S. production. As noted previously, the sole domestic producer through its trade association, has indicated that it does not object to a exclusion of TRC.

III. CONCLUSION

Kern-Liebers respectfully requests that the TPSC review the information presented herein and recommend that TRC should be excluded from any increased duty, tariff-rate quota or quantitative restriction that the President may impose under section 203 of the Trade Act of 1974. This can be done by including a footnote to the HTS tariff numbers referred to in Section II(a) above and a cross reference to Chapter 99 of the Tariff Schedule, indicating that the imports meeting the specifications of TRC and certified by the exporter to be TRC are excluded from the scope of and Section 203 remedy.

Respectfully submitted,

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